IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition No. 841 of 1992

Andheri Education Society
of Bombay .. Petitioner
V/s.
The Municipal Corporation
of Greater Bombay & Anr. .. Respondents

Mr. Rahul Chitnis i/b. M/s. Cr. Bayley & Co. for the Petitioner.
Ms. Ajithkumar for the Respondent-BMC.

CORAM : S. RADHAKRISHNAN &
S.A. BOBDE, JJ.
DATED : 09.08.2004

P.C.:-

1. By this Petition, the Petitioner is seeking possession of certain lands marked in blue at Exhibit A to the Petition.

2. Perusal of the Affidavit in Reply filed on behalf of the Respondent Corporation indicates that the possession of the plot of land has already been handed over except the portion, which has been reserved for a public road, and the portion meant for widening of the said public road. Perused also the paragraph 10, 11, 14 and 15 of the Affidavit in Reply dated 1.4.2002, wherein the Respondent Corporation has made it explicitly clear that the Respondents are ready and willing to compensate the Petitioner with regard to the portion covered by public road and the portion meant for widening by way of T.D.R. as per the Rules and Regulations as provided under the D.C. Regulations 1991. It appears that the Petitioner had also made a representation to the Respondents, seeking the benefit of T.D.R. under Regulation 34 of

D.C. Regulations 1991 for 2254=50 Sq. Mtrs. The

Respondent Corporation has stated that the said area has to be measured exactly by a joint survey. In the said Affidavit, in paragraph 15, the Respondents have categorically stated that they would be in a position to grant the T.D.R. benefit, once the land is properly surveyed by a joint survey.

3. Under the aforesaid facts and circumstances, we direct the Respondents to engage the services of D.I.L.R. Greater Bombay, to carry out the said joint survey and find out the exact area to the extent they are entitled, so as to enable the Respondents to grant the Petitioners the T.D.R. if they are eligible. This exercise shall be completed by the Respondents and the Petitioners as expeditiously as possible, preferably within a period of 4 months from today. After the said survey is carried out, an appropriate T.D.R. certificate will be issued to the extent, the Petitioner is found eligible. Rule is made absolute accordingly. Issuance of Certified copy expedited.

(S. RADHAKRISHNAN, J.)

(S.A. BOBDE, J.)